

REMARKS

Introductory Comments

Prior to this Amendment, claims 1-32 are pending in this application. By this Amendment, Applicants have amended claim 15 and added new claims 33-35.

Claim Objections

Claims 15-24 are objected to as containing an informality with respect to the wording of claim 15. More particularly, the Examiner objects to the language which states that the knee cushion is closer to the head end than the foot support section. Applicants have amended claim 15 solely to correct this informality. Referring to Figure 1, Applicants contend that when the mattress is assembled, the knee zone air cushion 52 is positioned adjacent to the foot support section 54 and is positioned in a location which has a closer proximity to the head end 23 than the foot support section's 54 proximity to such head end 23. In other words, the knee cushion 52 is located closer to the head end 23 than is the foot section. As such, the current language presented in the claims 15-24 is accurate and fully supported by the application. Removal of the Examiner's objection is respectfully requested.

Claim Rejections Under 35 U.S.C. § 102(e)

Claims 1-32 were rejected under 35 U.S.C. § 102(e) as being anticipated by Vrzalik, et al., U.S. Patent No. 6,721,979 (hereinafter "Vrzalik").

Applicants respectfully submit that Vrzalik simply does not support the Examiner's rejection under § 102(e) in light of the amendments and arguments made in this response. The case law is clear on this point, "anticipation requires that a single prior art reference disclose every limitation of the patent claim." General Electric Co. v. Nintendo Co., 50 USPQ2d 1910, 1915 (Fed. Cir. 1999) (citing PPG Industries, Inc. v. Guardian Industries Corp., 37 USPQ2d 1618, 1624 (Fed. Cir. 1996)) ("to anticipate a claim, a reference must disclose every element of the challenged claims and enable one skilled in the art to make the anticipating subject matter."). More particularly, the Federal Circuit has held that the test for anticipation is "[t]hat which would literally infringe if later in time anticipates if earlier than the date of invention." Lewmar Marine, Inc. v. Barient, Inc., 827 F.2d 744, 3 USPQ2d 1776 (Fed. Cir. 1987), cert. denied, 484 U.S. 1007 (1988).

Vrzalik discloses an air bag 21 which includes a "bead pouch 22 formed integrally therein." (Vrzalik, Col. 4, lines 44-45) (emphasis added). Vrzalik specifically teaches adapting existing air bags 21 to include bead pouches 22: "The principal difference between bed 20 and a commercially available KINAIR III bed is the adaptation of its air bags 21 to

include fluidizable bead pouches 22.” (Col. 4, ll. 20-23) (emphasis added). Applicants find no teaching and/or suggestion by Vrzalik wherein a mattress comprises an air cushion or non-fluidized support section, positioned intermediate an air fluidized support section, as required by the present claims. For example, referring to Figs. 5 and 6, Vrzalik merely teaches a mattress sectioned into three basic cushions 318a, 318b, and 318c. These cushions include fluidizable bead containment pouches 322a-c. (see also column 10, lines 18-39). As such, Vrzalik does not teach of a mattress having an air cushion or non-fluidized support section positioned intermediate an air fluidized support section, but rather teaches of a series of air cushions which contain fluidized air bags. For at least these reasons, claims 1-32 are believed to be in condition for allowance whereby removal of this rejection is respectfully requested.

Final Comments

Applicants submit that the application is now in condition for allowance and respectfully request that the same be granted. Applicants request that, if necessary, this Amendment be considered a request for an extension of time for a time appropriate for the amendment to be timely filed. Applicants request that any required fees for filing this Amendment be charged to the account of Bose McKinney & Evans LLP, Deposit Account Number 02-3223.

Respectfully submitted,

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